

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.11749 of 2016**

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1. Mahabodhi Teachers Training College, Tapovan (Belaroo), P.S.- Atri, District- Gaya, through its Chairman, Rajendra Kumar, son of Late Chandeshwar Prasad Singh, Resident of Village- Chataru, P.S.- Atri, District- Gaya.

.... .... Petitioner

Versus

1. National Council For Teacher Education, Hans Bhawan, Wing II, Bhadurshah Zafar Marg, New Delhi- 110002 through its Member Secretary.
2. The Member Secretary, National Council for teacher Education, Hans Bhawan Wing II, Bhadurshah Zafar Marg, New Delhi- 110002.
3. National Council for Teacher Education, Eastern Regional Committee, 15 Neelkantha Nagar, Nayapalli, Bhubneshwar- 751012.
4. The Regional Director, National Council for Teacher Education, Eastern Regional Committee, 15 Neelkantha Nagar, Nayapalli, Bhubneshwar- 751012.
5. National Assessment and Accreditation Council, P.O. Box No. 1075, Nagarbhavi, Bangalore- 560072, Karnataka through its Director.
6. The Director, National Assessment and Accreditation Council, P.O. Box No. 1075, Nagarbhavi, Bangalore- 560072, Karnataka, India.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Arun Kumar  
Mr. Bipin Kumar

For the Respondent/s : Mr. Kumar Brijnandan

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI  
SHARAN SINGH  
ORAL ORDER**

8      13-04-2017                      The petitioner seeks quashing of a decision taken by the Eastern Regional Committee of the National Council for Teachers Education (N.C.T.E.), dated 06.06.2016 (Annexure-1), whereby the petitioner's application for grant of permission to conduct M. Ed. programme in the concerned Mahabodhi Teachers Training College, Tapovan, Gaya, has been refused, under Section



15 (3) (b) of the National Council for Teachers Education Act, 1993.

The sole ground on which the petitioner's application has been refused is that Letter of Intent (LOI) validity of the application for accreditation by the National Assessment and Accreditation Council (NAAC) had expired. There are three requisites for entertaining an application for grant of permission to conduct M.Ed. course by an institution, which are:-

- (i) The Institute is offering Teachers Training Education Programme for a minimum period of five years;
- (ii) The Institution has permanent affiliation; and
- (iii) The Institute has applied for accreditation by the NAAC.

The petitioner fulfills two of the requisites over which there is no dispute. The petitioner had applied for accreditation before NAAC, which is also not in dispute, but since LOI for inspection validity had expired, which was communicated by NAAC, through letter, dated 17.10.2013, the N.C.T.E. has refused to consider application for recognition.

It is the case of the petitioner that the



petitioner was asked to reply in relation to the fact that LOI validity had expired. In response to a notice by N.C.T.E., the petitioner had submitted his reply through letter no. 11/2016, dated 14.01.2016, which has been brought on record by way of Annexure-6 to the writ application. It was mentioned in the said communication that the validity of LOI, which had earlier lapsed, has again been re-issued in favour of the College on 03.12.2013. It is the case of the petitioner that despite specifically stated in his representation, dated 14.01.2016, in relation to the subsequent acceptance of LOI on 03.12.2013, the Regional Director, Eastern Regional Committee, N.C.T.E., Bhubaneswar, rejected his application for recognition, ignoring this aspect.

Learned Counsel, appearing on behalf of the respondents, has taken a preliminary objection over maintainability of the writ application on the ground that the petitioner had remedy of statutory appeal, which has been indicated in the impugned order itself, which the petitioner did not avail and, therefore, this Court may not entertain his writ application. He has also submitted that since the petitioner failed to produce the subsequent acceptance of LOI by NAAC; based on earlier letter, dated 17.10.2013, issued by the NAAC, the Regional Director,



Eastern Regional Committee, N.C.T.E., Bhubaneswar, rightly rejected the petitioner's application.

So far as preliminary objection taken on behalf of the N.C.T.E. is concerned, in my view, availability of an alternative remedy is not an absolute bar for the High Court to entertain an application, under Article 226 of the Constitution of India. Normally, when statutory alternative appeal is available, the Court does not entertain an application, under Article 226 of the Constitution of India, in writ jurisdiction. However, in appropriate case(s), instead of relegating the petitioner to appellate forum, this Court may entertain a writ application despite there being alternative remedy.

In the present case, the writ application was filed on 25.07.2016. The matter remained pending in this Court till date. This is not in dispute that 02<sup>nd</sup> May is the last date, up to which an application for recognition by the N.C.T.E. can be entertained. It may not be fair for this Court, now, to relegate the matter to the appellate authority in view of the sole point involved in the present application as that will defeat the very purpose of approaching this Court. Matter would have been entirely different had the preliminary objection been taken and considered by this Court in the very beginning.



Considering the time constraints, in stead of relegating the matter to the appellate authority, I have decided to dispose of the writ application on the basis of merit.

There being specific case of the petitioner that he fulfilled all the requisites for consideration of application for recognition, including survival of his application for NAAC accreditation of the college, which appears not to have been taken into account, the impugned order, dated 06.06.2016, is set aside.

The Regional Director, Eastern Regional Committee, N.C.T.E., Bhubaneshwar, is directed to consider the petitioner's application afresh.

If the petitioner is in a position to show that as on the date of the order, his application for accreditation before NAAC was valid and pending, he will be required to pass an order afresh in accordance with law.

Learned Counsel for the N.C.T.E has submitted that even under the orders of this Court, the Regional Director, Eastern Regional Committee, N.C.T.E., Bhubaneshwar, cannot reconsider the petitioner's case in view of a decision taken by the N.C.T.E. headquarter.

Such submission is wholly misconceived.

If the Regional Director, Eastern Regional



Committee, N.C.T.E., Bhubaneshwar, fails to reconsider the matter afresh under the present orders of this Court, the Regional Director, Eastern Regional Committee, N.C.T.E., Bhubaneshwar, will be liable for contempt of court.

This application is disposed of with the observations and directions, as above.

**(Chakradhari Sharan Singh, J.)**

Prabhakar Anand/-

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